REMARKS

Applicant respectfully requests reconsideration of this application, as amended herein. Claims 1, 3-9, 11-14, 18-21, and 43-61 were pending in the application. In this amendment, Claims 1, 11, 13, 14, 18, 44, and 52 have been amended; and no new claims have been added or canceled. Therefore, Claims 1, 3-9, 11-14, 18-21, and 43-61 are pending in the application.

The Rejections under 35 U.S.C. § 103

Claims 1, 3-9, 11-14, and 18-21

The Examiner has rejected Claims 1, 3-9, 11-14, and 18-21 under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (US6047274) and Takriti (US6021402) in view of "Forecasting load-duration curves" by Bruce et al.. Applicants respectfully traverse the rejections.

As previously discussed, US Patent 6,047,274 (hereinafter "Johnson") discloses that residential customers have fairly predictable usage profiles and patterns. However, Johnson relies on this assumption to presuppose that energy usage is relatively consistent and, based upon this consistency, energy providers may effectively compete to provide energy to end users through an auction system. In this energy auction service, a bidding moderator receives bids from the competing suppliers of the rate each is willing to charge a particular end user for estimated quantities of electric power or gas supply. Each supplier receives competing bids from the moderator and has the opportunity to adjust its own bids, e.g., to reflect capacity utilization.

US Patent 6,021,402 (hereinafter "Takriti") discloses a risk management system for power providers that involves forecasting energy needs in the context of power-trading. This system is directed to the scheduling of operation of generating units of an electric utility taking into account load forecast to be met, fuel prices, different scenarios, and different time frames.

"Forecasting load-duration curves" by Bruce et al (hereinafter "Bruce") discusses the forecasting of electricity load duration curves (i.e., the distribution of loads over a given period of time). Bruce focuses on the macro-scale electricity provider environment, for example countries such as New Zealand, and this forecast modeling allows for the prediction of electrical loads at different time intervals across several electrical power generation facilities.

In contrast to the cited prior art, the instant invention is directed to monitoring and predicting a consumer's utility usage based upon actual variations in usage by the individual consumer and, from this real-time data, making an optimal consumption determination. The

optimal consumption determination is based upon a price baseline determined at least in part as a percentage of a forecast load that will be met by at least two utility provider/power sources selected from the plurality of utility provider/power sources, as recited in independent claims 1 and 44 of the instant application. The system described in the present application uses more than one source of power and determines an optimal percentage of the load to be carried by each of the selected sources of power.

The cited references merely teach a system in which a plurality of sources of power bid to supply power based upon expected consumption. The lowest bidder is then selected for the time period of the calculation. That is, only a single source provides all the power. In the present invention, two or more sources of power provide an optimal percentage as determined by the disclosed system.

As neither Johnson et al. nor Takriti, in combination with Bruce et al., neither teaches nor suggests all the features of the present invention, independent Claim 1 is patentably distinguished.

Claims 3-9, 11-14, and 18-21 depend from Claim 1 and incorporate the same limitations as Claim 1, which, as described above, is patentably distinguished. Thus, Claims 3-9, 11-14, and 18-21 are, likewise, patentably distinguished.

Claims 43-61

The Examiner has rejected Claims 43-61 under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (US6047274) in view of "Forecasting load-duration curves" by Bruce et al.. Applicants respectfully traverse the rejections.

Claim 43 depends from Claim 1 and incorporates the same limitations as Claim 1, which, as described above, is patentably distinguished. Thus, Claim 43 is, likewise, patentably distinguished.

With regard to independent Claim 44, nothing in the cited references teaches or suggests that the optimal consumption determination is based upon a price baseline determined at least in part as a percentage of a forecast load that will be met by at least two utility provider/power sources selected from the plurality of utility provider/power sources, as recited in independent claim 44. The server, as taught by the present invention, determines an optimal percentage of the load to be carried by each of the selected sources of power where more than one source of power is used.

As Johnson et al. in combination with Bruce et al., neither teaches nor suggests all the features of the present invention, independent Claim 44 is patentably distinguished.

Claims 45-61 depend from Claim 44 and incorporate the same limitations as Claim 44, which, as described above, is patentably distinguished. Thus, Claims 45-61 are, likewise, patentably distinguished.

CONCLUSION

Applicants have made a diligent effort to address the rejections identified by the Examiner, and respectfully submit that the outstanding rejections in the Office Action have been overcome. In view of the above amendments and remarks, all pending claims are believed to be patentable, and thus the case is in condition for allowance. Accordingly, a Notice of Allowability is respectfully requested at the Examiner's earliest convenience. In the event that there is any question concerning this response, or the application in general, Applicants respectfully request that the Examiner contact Applicants' attorney at the telephone number listed below so that additional changes may be discussed.

Respectfully submitted,
Michael C. Burke et al.,

By: _____ 1/8/07
Jeffrey C. Maynard
Reg. No. 46,208
Attorney for Applicants

WHITEFORD, TAYLOR & PRESTON L.L.P.
Seven Saint Paul Street
Baltimore, Maryland 21202-1626
Telephone: (410) 347-9496
Facsimile: (410) 234-2324